

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

CHRISTINA M. VOGT,

Plaintiff,

v.

Civ. Action No. 1:20-CV-279  
(Kleeh)

MEREDITH HARTERY,  
BOBBIE GODBEY, and  
CHEYENNE LUZYNSKI,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 8] AND  
DISMISSING ACTION WITHOUT PREJUDICE

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On December 28, 2020, the Plaintiff, Christina M. Vogt ("Plaintiff"), filed a Complaint in this action against the Defendants, Meredith Hartery, Bobbie Godbey, and Cheyenne Luzynski (together, "Defendants"). Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï (the "Magistrate Judge") for initial review. On March 18, 2021, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the action without prejudice because it lacks subject matter jurisdiction.

The R&R informed Plaintiff that she had "fourteen (14) days after being served with a copy of th[e] Report and Recommendation [to] file with the Clerk of the Court specific written objections

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identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection." The R&R further informed Plaintiff that "[f]ailure to timely file objections . . . will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation."

The R&R was sent by certified mail to Plaintiff's last address shown on the docket: P.O. Box 76, Great Cacapon, WV 25422. It was returned as undeliverable. See ECF No. 9. Plaintiff previously accepted service of the *Notice of General Guidelines for Appearing Pro Se In Federal Court* [ECF No. 4], which indicates that Plaintiff "must keep [her] contact information (address and phone number) current with the Court." To date, no objections to the R&R have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial

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Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 8]. This action is **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the Court's active docket. Plaintiff's motion to amend is **DENIED** [ECF No. 10].

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to the pro se Plaintiff via certified mail, return receipt requested, at the last known address shown on the docket.

DATED: February 14, 2022

/s/ Thomas S. Klee  
THOMAS S. KLEE  
UNITED STATES DISTRICT JUDGE